

**Commenter No. 11:**

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5750 Ramirez Canyon Road Malibu, CA 90265,  
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**Agenda Item 10(d)  
SMMC  
01-28-2008**

**Comment No. 11-1:**

The proposed project for 37 detached single-family homes on a 6.19-acre site is located along a short but scenic section of the Mulholland Scenic Parkway. This section of Mulholland Drive from Topanga Canyon Boulevard to Mulholland Highway imparts a semi-rural viewshed complemented by a series of public-owned parcels. The proposed project, and the one other development Draft Environmental Impact Report (DEIR) alternative, would unnecessarily, irreversibly degrade this unique public resource. The DEIR conclusion that both the project, and the “No Zone Change-Residential Subdivision alternative,” would not result in unavoidable significant adverse viewshed impact subjectively downplays the fact that the project will permanently alter an important public viewshed.

**Response:**

The analyses in Draft EIR (Section V.B, page V.B-1) concluded that the surrounding area is better characterized as suburban rather than semi-rural. This distinction is based upon the nearby and adjacent land uses, which include: one- and two-story single-family homes to the north, east, and west, the Girard Reservoir and the City of Los Angeles Department of Water and Power Pumping Station to the northeast, a private parochial high school and convent to the southeast, and a two-story commercial office building with a surface parking lot and a shopping center to the southwest. The private parochial high school, called Louisville High School, and convent property houses multiple structures and contains a surface parking lot that parallels Mulholland Drive. The two-story commercial office building, called Mulholland Plaza, is located at the southwest corner of the intersection between Mulholland Drive and Mulholland Highway. The shopping center, called Gelson’s Village Calabasas, consists of retail and commercial stores, including a Gelson’s Supermarket, yoga studio, Washington Mutual Bank, and dry cleaners. Adjacent to Gelson’s Village Calabasas is a Shell gas station. Located directly to the west of the shopping center is a large development of multiple-family housing.

Because of the level of development in the immediate area, this section of Mulholland Drive does not impart a semi-rural viewshed. Rather, as discussed in the Draft EIR on page V.B-19, the aesthetic values of the scenic vistas along this portion of the parkway have been compromised and no longer retain high scenic character that distinguishes other portions of the parkway. Consequently, the analyses in the Draft EIR do not agree with the comment’s characterization of the proposed project as unnecessarily and irreversibly degrading this unique public resource. Instead, the analyses conclude the viewshed along this portion of the parkway has already been degraded and the impact of the proposed project would be less-than-significant. The existing tree canopy and topography prevent views of the Valley or distant San Gabriel Mountains on this portion of the parkway.

**Comment No. 11-2:**

The DEIR conclusion is based on visual impact mitigation measures that require screening by vegetation that will take at least five years to mature and then provide no guarantee. Reliance on landscaping to hide projects in the most important scenic corridor in the City represents poor project design and weak mitigation sustainability. The DEIR contains no figure showing how this screening can be accomplished particularly with native plants that are encouraged with the Inner Corridor of the Mulholland Scenic Parkway.

**Response:**

The analyses in the Draft EIR conclude that both the proposed project's impacts on visual character and those of Alternative 2 are potentially significant, but are subject to mitigation through implementation of mitigation measures (see pages V.B-19 and VII-11, respectively). Project Enhancement B-19 states that the project applicant/developer will: (1) implement a proposed master landscape plan that is in conformance with the Design Review procedures and landscape guidelines established by the Mulholland Scenic Parkway Specific Plan; and (2) that the proposed master landscape plan will achieve total screening of project homes through the planting of new native trees and shrubs. Contrary to the comment, the Draft EIR presents the proposed project's landscape plan in Figure III-5. In addition, the Draft EIR contains 14 scenic cross-sections in support of the analysis. The landscape plan for Alternative 2 is presented in the Draft EIR as Figure VII-2, while 14 scenic cross-sections in support of the analysis are presented in Figures V.F-1 through V.F-4 and summarized in Table V.F-3. The text on page V.B-27 of the Draft EIR has been changed in this Final EIR to clarify that it is the combined effect of Mitigation Measures B-1 through B-18, as well as Project Enhancements B-19 through B-25, that reduces project impacts to the project site's visual character to a less-than-significant level.

Also, see Response to Comment No. 5-3.

**Comment No. 11-3:**

In addition, the DEIR is deficient for providing zero analysis on how fuel modification for the tract would have a permanent negative impact both on the remaining open space in the tract and in the City of Los Angeles Department of Water and Power-owned Girard Reservoir. All of the proposed open space in the project, and its one development alternative, would be in fuel modification zones. The DEIR is further deficient for providing no details and enforceable guidelines of how the proposed "protected woodlands" within the subject property will be maintained as natural, ecologically viable resource areas in perpetuity.

**Response:**

Fuel modification activities would be required within 200 feet of the proposed residential structures on the project site, including the western portion of the DWP site. Fuel modification activities required within 100 feet of structures would require trimming of trees and brush and mowing of other vegetation along the western berm of the reservoir. Fuel modification activities required within 200 feet of structures (but more than 100 feet from the structures) would only require trimming of trees within the

western portion of the reservoir itself. Based on a recent assessment of the DWP property by CAJA biologists in June 2007, these fuel modification activities would not result in significant impacts to: (1) the few sensitive species that are or have the potential to be present (as impacts would be temporary, infrequent, and minimal); (2) wetlands (as no excavation, hydrologic modification, or placement of fill material within the wetland would be required); or (3) protected trees (as tree trimming is not prohibited under the City's Protected Tree Ordinance or the Mulholland Scenic Corridor Specific Plan).

This response would be the same for Alternative 2.

With respect to "protected woodlands" The General Biological Assessment (Assessment) provided by TeraCor (refer to Appendix G-1) states that a portion of the site contains habitat that could be identified as coast live oak woodland, however, the understory elements of the oak woodland are absent and have been replaced with non-native grasses and ornamental trees. The Assessment also states that the habitat values of the site are substantially diminished because of the aforementioned understory degradation and the fact that the area surrounding the site is fully developed. Further, while the coast live oak woodland plant community is listed in the California Natural Diversity Database (CNDDDB) it is only assigned a sensitivity ranking of G4 S4, which means that this plant community is apparently secure. Coast live oak woodland is well distributed throughout Southern California and the Santa Monica Mountains, which is in the project vicinity to the south. In addition, the proposed project would retain much of the existing oak woodland on site, the majority of which is located along the southern and eastern boundaries and in the northeastern corner of the site.

To reduce construction impacts to protected species trees to be preserved on the project site and ensure their continued health and survival, all mature trees to be retained on site shall be examined by a qualified arborist prior to the start of construction, protected during construction per specific procedures laid out in Mitigation Measure D-6 and examined monthly during construction by a qualified arborist to ensure that the trees are being adequately protected and maintained. Further, the project applicant is required to post a cash bond or other assurances acceptable to the Bureau of Engineering in consultation with the Urban Forestry Division and the Advisory Agency guaranteeing the survival of the trees to be maintained, replaced or relocated in such a fashion as to assure the existence of continuously living trees for a minimum of three years from the date the bond is posted or from the date such trees are replaced or relocated, whichever is longer. Following the project applicant's fulfillment of this requirement, the protected species on the project site will remain under the protection of Ordinance 177,404 and subject to all the provisions therein with oversight and enforcement by the Urban Forestry Division, as well as those protections set forth under the Mulholland Scenic Corridor Specific Plan.

**Comment No. 11-4:**

The DEIR contains only one alternative development project. That alternative contains approximately the same disturbance footprint as the proposed project. For this reason the range of project alternatives is inadequate to show decision makers that an economically viable, less damaging alternative project is possible. A project that reduces the proposed 37 units to 32 units can accomplish much of this goal. The Final EIR should include the following 32-unit alternative with a full analysis on its public and

environmental superiority to both the proposed project and the one DEIR development alternative (number 2).

**Response:**

As stated in Section 15126.6(a) of the CEQA Guidelines, an EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparable merits of the alternatives. However, an EIR need not consider every conceivable alternative to a project.

The comment suggests that a similar project footprint results in equivalent project impacts. That is not necessarily the case. While the comment letter suggests an alternative with 32-units, the Draft EIR includes Alternative 2, which would provide 29 units. Therefore, the suggested 32-unit alternative falls within the range of alternatives already assessed and, consequently, does not constitute substantially new information. For this reason, the suggested alternative does not warrant further analysis.

**Comment No. 11-5:**

To shape the project into a footprint that will not result in significant, unavoidable adverse impact to the Mulholland Drive viewshed, and that will maintain ecologically viable open space on the site, the following minimum project modifications are essential. Lots one, two and three in the southeastern project corner by Mulholland Drive and the DWP's Girard Reservoir must be entirely removed and be converted to permanent open space protected by a conservation easement. The other remaining lots that the DEIR concludes will be visible from Mulholland Drive (generally upslope) must be limited to single story dwellings not exceeding eighteen feet in height. In addition isolated lots 22 and 23 in the northeast project corner must be entirely removed to protect woodland habitat and viewshed from San Feliciano Drive.

**Response:**

Neither the proposed project nor Alternative 2 would result in significant impacts to viewsheds or biological resources that would justify the restrictions advocated by the comment. See Responses to Comment Nos. 5-3 and 11-2. Nevertheless, comments with regard to suggested modifications to the project plans are acknowledged and will be forwarded to the decision-making bodies for their review and consideration.

**Comment No. 11-6:**

An essential part of this 32-unit less damaging alternative is that every square foot of the open space lots must be in a conservation easement that prohibits any lighting, non-native plants, hardscape, domestic animals, animal movement blocking fencing, and any other deleterious uses. The only way the public can be assured that the land will remain in this state forever is for both the City and the Mountains Recreation and Conservation Authority (MRCA) to receive these conservation easements. If all of the project access

could be from Mulholland Drive, the direct impacts of the intrusive access road from San Feliciano Drive could also be eliminated. Under any scenario the Final EIR should require a mitigation measure that directs an appropriate amount of onsite stormwater flow to the this northwest corner of the project to increase ground water recharge and reduce pollutant loading in the Los Angeles River. The site conditions are perfect for this type of mitigation measure, and the applicant should be required to establish a willow woodland in this area to mitigate the loss of the pond site and willows which would occur under any development scenario other than one-acre estate sites.

**Response:**

The project applicant does not propose to establish a conservation easement over the open space; rather, the open space will be maintained by the homeowners' association. The following mitigation measure (D-7) has been added in the Final EIR to page V.D-41 of the Draft EIR (see Section II. Corrections and Additions) to read as follows:

D-7 The following uses shall be prohibited from the proposed open space: lighting, non-native plants, hardscape, domestic animals, animal movement blocking fencing, and any other deleterious uses.

The project applicant does not propose to have all project traffic access the project site from Mulholland Drive.

With respect to drainage, the proposed project relies on gravity for drainage. The 28-foot driveway drains through the site and outlets onto San Feliciano. Driveway drainage will be picked up at a low point in the driveway near Mulholland, in the vicinity of units four and five, by a filtered catch basin and directed through a storm drain pipe to outlet through a headwall onto the 28-foot driveway near unit 21. The preserved oak tree open space will continue to drain to the northeast portion of the project into the back of an existing catch basin on San Feliciano.

In comparison, the drainage concept for Alternative 2 (Vesting Tentative Tract No. 67505) utilizes an onsite storm drain system that will outlet onto the existing drainage swale located within the northerly portion of the site. The proposed on site storm drain will not connect to the existing Los Angeles County Flood Control 81- inch diameter storm drain, located within the site. The onsite storm drain system will be designed to drain the proposed low point in the street shown on VTTM No. 67505 and will outlet onto the existing onsite drainage swale. The existing drainage swale will be used as a bioswale to filter the runoff before it enters onto the public right of way of San Feliciano Drive. The conceptual site hydrology study for Alternative 2 examined the existing and proposed conditions, and the difference between the peak flow rates is small enough to be considered negligible. Onsite detention is, therefore, not necessary

**Comment No. 11-7:**

The week of March 19, 2007, the DWP contacted our staff regarding sending a draft license agreement to allow the MRCA to operate the western section of the Girard Reservoir property as a public natural area. That draft is expected this week. The outstanding issues were where to place a fence to keep people out of the reservoir bottom for safety reasons and how to draw a boundary that provided a public entrance

from Mulholland Drive. That draft will be forwarded to the Planning Department's attention prior to the close of the DEIR comment period. To provide the greatest public benefit from the project, the City should require that all of the open space located east of the proposed project improvements be dedicated to a public agency-such as the MRCA. In such case the homeowners association must retain an easement to allow residents to pay to clear brush on public land to protect their homes, in perpetuity. The Final EIR should analyze this mitigation measure, and the City include it under all approved development projects. Attractive wrought iron fencing and thorny native plants on the public side of the fence would provide adequate separation between residents and the public natural area.

**Response:**

With respect to dedication of the project's open space, see Response to Comment No. 11-6. The project applicant proposes the homeowners' association to be responsible for fuel modification on the project site, but will not be responsible for the DWP property. In addition, the project applicant does not propose to provide wrought iron fencing or landscaping on the public side of the Girard Reservoir fence.

The City understands that DWP is negotiating with the Conservancy/MRCA regarding a possible future license agreement, whereby the Conservancy might obtain limited use of a portion of the Reservoir. However, the license agreement is in the preliminary discussion phase and the outcome of the license agreement therefore is uncertain and too remote for the purposes of CEQA analysis. As recently as October 23, 2007, the DWP indicated to Planning Department staff that an agreement with the Conservancy/MRCA is still pending. The uncertainty of this matter therefore persists. Notwithstanding that uncertainty, if and when such negotiations lead to an agreement between DWP and the Conservancy, it is the City's understanding that the agreement would not involve dedications qualifying as "public parkland," as such term is used in the Mulholland Scenic Parkway Specific Plan, that would require any changes to the Project.

**Comment No. 11-8:**

In summary, the Conservancy sees no public policy justification to certify an EIR with an inadequate range of less damaging alternative projects or to approve a project that will result in unavoidable, significant adverse visual impacts to Mulholland Drive. Soon the MRCA will operate a public natural area at the adjacent Girard Reservoir site and the City should take all necessary measures to ensure that the park site provides the highest quality experience possible to the public. The DEIR conclusion that the applicant can build over 45 houses by right on the site because of zoning is flawed and misleading. The California Environmental Quality Act requires an analysis of impacts and the presentation of mitigation measures to reduce those impacts to the extent feasible. We believe that the above suggested 32-unit alternative and mitigation measures achieve this balance. It should be fully incumbent upon the applicant to demonstrate via an independent economic analysis that this alternative is not economically feasible. Just because a much better 32-unit project does not meet the applicant's DEIR project objective of creating 37 units, by no means does the City have to honor that application.

**Response:**

As stated in Section 15126.6(a) of the CEQA Guidelines, an EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparable merits of the alternatives. However, an EIR need not consider every conceivable alternative to a project. Given the relatively small size of the proposed project (i.e., 37 residential units) and the absence of significant impacts, the range of alternatives presented in the Draft EIR is reasonable.

The City understands that DWP is negotiating with the Conservancy/MRCA regarding a possible future license agreement, whereby the Conservancy might obtain limited use of a portion of the Reservoir. However, the license agreement is in the preliminary discussion phase and the outcome of the license agreement therefore is uncertain and too remote for the purposes of CEQA analysis. As recently as October 23, 2007, the DWP indicated to Planning Department staff that an agreement with the Conservancy/MRCA is still pending. The uncertainty of this matter therefore persists. Notwithstanding that uncertainty, if and when such negotiations lead to an agreement between DWP and the Conservancy, it is the City's understanding that the agreement would not involve dedications qualifying as "public parkland," as such term is used in the Mulholland Scenic Parkway Specific Plan, that would require any changes to the Project.

Contrary to the comment, the analyses in the Draft EIR do not conclude that that the applicant can build over 45 houses by right on the site because of zoning. Rather, the analyses establish that the density of both the proposed project and Alternative 2 are consistent with the densities permitted by existing zoning and land use designations.

With respect to the Conservancy's suggested alternative, see Responses to Comment Nos. 11-4 to 11-6.